IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Writ Petition No. 4407 of 2005

Nilesh P Vaghela...Petitioner
vs.
State of Mah and ors. ...Respondents

Shri P.N.Patil for petitioner
Shri C.R.Sonawane AGP for State

CORAM: A.P.SHAH & D.Y.CHANDRACHUD JJ.
22nd July, 2005

P.C.

Heard the learned counsel for the parties.

. The challenge is to the order passed by the Scrutiny Committee dated 3l.5.2005 invalidating the caste certificate of the petitioner pertaining to "Vankar" Scheduled Caste. The Scrutiny Committee has held that the petitioner is a migrant from Gujarat State and as such is not entitled to claim the benefit of Scheduled Caste in the State of Maharashtra. The Scrutiny Committee has also held that the documentary evidence produced by the petitioner is inconsistent in as much as in some documents the caste has been mentioned as "Darji" whereas in other documents the caste is shown as "Vankar".

It is an admitted position that petitioner’s father was born in Bhavnagar,Saurashtra in l963. The learned counsel appearing for the petitioner has however, relied upon the certificate dated l0.6.2004 issued by the BEST Undertaking Mumbai certifying that petitioner’s great grand father Ramji Kalyanji had electricity installation No.l0736l in his name since 5.8.l939 and now the said installation is in the name of Gokuldas J Waghela who is cousin of the petitioner’s father . The learned counsel also placed reliance on the rent receipts issued in favour of Ramji Kalyanji i.e.petitioner’s grand father. The certificate issued by the BEST and the rent receipts are not sufficient to establish that petitioner’s family was residing in State of Maharashtra prior to the proclamation of First Presidential Notification. The Scrutiny Committee has recorded a finding of fact that neither the candidate nor his father were residing in Maharashtra at the time when Vankar caste was notified in the list of Scheduled Caste. Moreover the documentary evidence produced by the petitioner is self contradictory and the Committee has observed that the petitioner is trying to take

benefit of the phonetic similarity between the words "Vankam" and "Vankar". In the circumstances we are not inclined to interfere with the impugned order of the Scrutiny Committee.

. The learned counsel for the petitioner submitted that the petitioner has already completed one Academic Year of B Pharm and he may be allowed to continue his studies subject to furnishing undertaking that he and his family members shall not claim benefit of the Scheduled Caste in future in the State of Maharashtra. We are inclined to accept the submission especially in view of the fact that the petitioner has already completed one year of the B Pharm course and moreover the seat would go waste if his admission is cancelled at this stage. We direct the respondents not to cancel petitioner’s admission and allow him to continue the course in the 2nd respondent college subject to petitioner and his father filing a written undertaking in this court within four weeks from today that they will not claim any benefit as belonging to Scheduled Caste in future in the State of Maharashtra. Petition is accordingly disposed of.